



Rule and Interpretive/Policy Statement Review Checklist

This form is to be used when the current version of the rule or interpretive or policy statement has not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-20-247 Trade-ins, selling price, sellers' tax measures.**

Date last adopted/issued: **April 21, 2001**

Reviewer: **Gayle Carlson**

Date review completed: **March 11, 2004**

Briefly explain the subject matter of the document(s):

Rule 247 explains when the value of a trade-in can be applied to the purchase price of an item of tangible personal property. It explains that the exclusion is limited to retail sales and use taxes only, and does not apply to business and occupation tax. The rule also provides definitions and examples.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)



X	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

- **This rule provides additional information and clarification in determining tax measures of the selling price of tangible personal property, when trade-ins are a part of the transaction.**
- **The rule is written in a clear and concise manner, and provides examples to assist taxpayers and others when applying the statutes.**

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.



4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
	X	Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

- **The rule is written in a clear, concise, and easy to read format.**
- **In section (10) Casual or isolated sales, a reference is made to RCW 82.12.0251 and WAC 458-20-178. The reference should be RCW 82.12.020(2) and WAC 458-20-178 (Use tax).**

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

- **RCW 82.32.300 and 82.01.060(2) authorize the Department to write and publish rules that are deemed necessary or desirable.**
- **At this time, there are no reasons for recommending legislative changes.**

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

- **The Department has the authority to administer the business and occupation tax, retail sales and use taxes pertaining to retail sales.**



7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

- **This rule results in equitable treatment of sellers and purchasers by providing guidance for when "trade-in" values can be applied to selling prices, and thus reduce the retail sales tax owed by purchasers. "Value of article used" can also be applied in situations to reduce tax amount due. Definitions and examples are included to assist readers in the interpretation of the rule and statutes.**

9. LISTING OF DOCUMENTS REVIEWED: Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA) decisions, and Appeals Division decisions (WTDs) should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **RCW 82.04.050 "Sale at retail," "retail sale."**
- **RCW 82.04.070 "Gross proceeds of sales."**
- **RCW 82.04.090 "Value proceeding or accruing."**
- **RCW 82.04.220 Business and occupation tax imposed.**
- **RCW 82.08.010 Definitions.**
- **RCW 82.08.020 Tax imposed - Retail sales - Retail car rental.**
- **RCW 82.08.050 Buyer to pay, seller to collect tax.**
- **RCW 82.08.0251 Exemptions - Casual and isolated sales.**
- **RCW 82.12.010 Definitions.**
- **RCW 82.12.020 Use tax imposed.**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs):



- **ETA 318.04.106/211 Sales and/or trade-ins of tangible personal property from rental inventory.**

Court Decisions:

- **None.**

Board of Tax Appeals Decisions (BTAs):

- **None.**

Appeal Division Decisions (WTDs):

- **Det. 97-228, 17 WTD 170 (1998). Overruled by Det. 99-005R, 19 WTD 223 (2000).**
- **Det. 98-070, 17 WTD 375 (1998). Leased items cannot be used to receive a trade-in credit because the lessee is not the owner.**
- **Det. 99-005R, 19 WTD 223 (2000). The value of a vehicle, traded-in by a purchaser of a consigned vehicle, can be deducted from the purchase price for retail sales tax purposes.**
- **Det. 00-203, 20 WTD 394 (2001). The seller or the seller's agent must accept ownership of the trade-in property, and must reduce the sale price of the property at the time of sale.**

Attorney General Opinions (AGOs):

- **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

- | | |
|---------------------|---|
| <u> </u> | Amend |
| <u> </u> | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u> X </u> | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| <u> </u> | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

The recommendation is to leave Rule 247 as it currently reads. The rule is clear, concise, and well organized. The format is easy to read and is understandable. Examples are provided to assist readers in applying the provisions of the statutes and the rule.



11. Manager action: Date: April 22, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

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